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Jodi Breslin

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EXAMINER

BOYCE, ANDRE D

ART UNIT

PAPER NUMBER

3623

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/619,496	<b>Applicant(s)</b> BRESLIN ET AL.	
	<b>Examiner</b> Andre Boyce	<b>Art Unit</b> 3623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-19,27-29 and 31-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-19,27-29 and 31-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This Non-final office action is in response to Applicant's amendment filed 7/29/10.  
Claims 1-3, 5-19, 27-29 and 31-41 are pending.
2. Applicant's arguments with respect to claims 1-3, 5-19, 27-29 and 31-41 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 6, 17, 18, 27-29, 32, 39 and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Davenport et al (US 2004/0103431).

As per claim 1, Davenport et al disclose a method for providing business continuity in an enterprise (i.e., emergency planning and management of a facility, ¶ 0012, including continuity of operations, ¶ 0040) comprising: using at least one computer processor (i.e., system 40, figure 4), collecting department information describing at least one department within the enterprise (i.e., collect information vital

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facility information, ¶ 0010), storing the department information in an electronic database (i.e., storage device 42, figure 4); using the at least one computer processor, assessing a criticality of the at least one department (i.e., preparing a hazard vulnerability analysis, ¶ 0022); storing the assessment of the criticality of the at least one department in the electronic database (i.e., storage device 42, figure 4); using the at least one computer processor, developing a recovery plan for recovery from a degradation of a functionality of the at least one department, wherein the recovery plan aims to ensure the business continuity of the at least one department (i.e., development of an emergency plan, ¶ 0037) storing the recovery plan in the electronic database (i.e., storage device 42, figure 4); using the at least one computer processor, assessing the recovery plan (i.e., analysis and review of existing emergency plan, ¶ 0038); storing the assessment of the recovery plan in the electronic database (i.e., storage device 42, figure 4); testing the recovery plan and recording the results of the testing (i.e., tests of the updated emergency plan, ¶ 0040); storing the recorded results of the testing in the electronic database (i.e., storage device 42, figure 4); and using the at least one computer processor, providing status data from the electronic database, wherein the status data comprises at least one of a status of: the collection of the department data; the assessment of the criticality; the development of the recovery plan; and the testing of the recovery plan (i.e., updating of the latest emergency plan and surveying tools, ¶ 0038).

As per claim 2, Davenport et al disclose the step of collecting department information further comprises at least one of: collecting department information with respect to the department name; collecting department information with respect to the department manager; collecting department information with respect to a primary location of the department (i.e., detailed map or schematic of a floor plan of the facility, ¶ 0044), collecting department information with respect to a recovery location of the department; collecting department information with respect to products and services provided by the department; collecting department information with respect to a total number of production seats required by the department; and collecting department information with respect to a number of specialized production seats required by the department.

As per claim 3, Davenport et al disclose wherein a loss of use of the primary location is assumed, the steps of collecting department information with respect to the total number of production seats and the specialized production seats further comprises at least one of: determining how many of each type of seat is required a same day as the loss of use of the primary location; determining how many of each type of seat is required a day after the loss of use of the primary location; determining how many of each type of seat is required a week after the loss of use of the primary location; and determining how many of each type of seat is required a month after the loss of use of the primary location (i.e., detailed map or schematic of a floor plan of a facility, including room numbers and functions of the room (i.e.,

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determining how many of each type of seat is required a same day as the loss of use of the primary location, ¶ 0044).

As per claim 6, Davenport et al disclose wherein as part of the step of assessing the criticality of the department, the degradation of a functionality of the department is assumed, the step of assessing the criticality of the department further comprises at least one of: assessing an impact on external customers of the enterprise resulting from the degradation of the functionality of the department; assessing an impact on internal customers of the enterprise resulting from the degradation of the functionality of the department (i.e., testing of the emergency plan in conjunction with preset goals and objectives including preservation of life, limb and property, and continuity of operations, ¶ 0040); assessing a financial impact resulting from the degradation of the functionality of the department; assessing an allowable time period that the degradation of the functionality of the department can last; assessing an impact on regulatory obligations resulting from the degradation of the functionality of the department; and assessing an impact on legal obligations resulting from the degradation of the functionality of the department.

As per claim 17, Davenport et al disclose all of the steps are facilitated using a software application, the method further comprising: generating data input screens for accepting input from a user (i.e., controller and user interface 41, figure 4), and providing drop down boxes on the data input screens in order to facilitate selection of predefined information (i.e., selecting graphical objects on the electronic plan such as by using directional arrow keys, ¶ 0061).

As per claim 18, Davenport et al disclose questioning the developer of the plan as to whether it has required elements; and developing a corrective action plan to address missing required elements (i.e., survey tool developed for analyzing the facility from an expert point of view, ¶ 0039).

Claims 27, 28, 29, 32, 39 and 40 are rejected based upon the same rationale as the rejections of claims 1, 2, 3, 6, 17 and 18, respectively, since they are the system claims corresponding to the method claims.

5. Claims 5, 19, 31 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davenport et al (US 2004/0103431), in view of Bechhofer et al (USPN 7,305,351)

As per claim 5, Davenport et al does not disclose the step of collecting department information further comprises at least one of: collecting department information with respect to software applications relied on by the department and collecting department information with respect to external vendors relied on by the department. Bechhofer et al disclose IT risks, including a risk that the IT systems will become unavailable for use (column 10, lines 56-59). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include collecting department information with respect to software applications relied on by the department in Davenport et al, as seen in Bechhofer et al, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately,

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and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 19, Davenport et al does not disclose providing status data on the enterprise level; providing status data on a line of business level; and providing status data on a department level. Bechhofer et al disclose corporate risk/opportunity management 320 may prepare comprehensive risk and opportunity reports based on the reports coming in from individual business units 300 and staff departments 310, wherein these reports may form the basis on which corporate risk/opportunity management 320 prepare comprehensive risk and opportunity reports for the entire corporation. Finally, corporate risk/opportunity management 320 may provide ongoing generic risk/opportunity management training including the sharing of risk/opportunity management knowledge and best practices, and the identification of risk transfer strategies in accordance with established risk retention levels, column 15, lines 38-54). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include collecting department information with respect to software applications relied on by the department in Davenport et al, as seen in Bechhofer et al, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.



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Claims 31 and 41 are rejected based upon the same rationale as the rejections of claims 5 and 19, respectively, since they are the system claims corresponding to the method claims.

6. Claims 7-14 and 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davenport et al (US 2004/0103431), in view of Jacobs et al (USPN 5,185,697).

As per claim 7, Davenport et al does not disclose assigning specific people to fulfill roles in a case of interruption of the business of the enterprise, wherein the roles include at least one of: building emergency organization chairperson; business executive; facilities regional manager; and human departments coordinator.

Jacobs et al disclose assigning specific people to fulfill roles in a case of interruption of the business of the enterprise (i.e., top decision makers located at the crisis command center, column 6, lines 27-29), wherein the roles include at least one of: building emergency organization chairperson; business executive (i.e., executive summary, table 2); facilities regional manager; and human departments coordinator. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include assigning specific people to fulfill roles in a case of interruption of the business of the enterprise, wherein the roles include at least one of: building emergency organization chairperson; business executive; facilities regional manager; and human departments coordinator in Davenport et al, as seen in Jacobs et al, since the claimed invention is merely a combination of old elements, and in the

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combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 8, Davenport et al does not disclose receiving acknowledgements of the acceptances of the assignments from the specific people. Jacobs et al disclose receiving acknowledgements of the acceptances of the assignments from the specific people (i.e., remote units 200 as investigative units communicating with the crisis command center 100, where the top decision makers are located, column 6, lines 24-35). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include receiving acknowledgements of the acceptances of the assignments from the specific people in Davenport et al, as seen in Jacobs et al, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 9, Davenport et al does not disclose assigning alternate people to fulfill the roles. Jacobs et al disclose assigning alternate people to fulfill the roles (i.e., remote units 200 as investigative units communicating with the crisis command center 100, where the top decision makers are located, column 6, lines 24-35). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include assigning alternate people to fulfill the roles in Davenport et al, as seen in Jacobs et al, since the claimed invention is merely a combination of old

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elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 10, Davenport et al does not disclose the role of building emergency organization chairperson comprises at least one of: overseeing recovery activities in the event of an emergency; providing status on the recovery activities; prioritize resumption of critical functions; and compiling a list of all business units in a facility and their designated assembly areas, and recovery sites.

Jacobs et al disclose the role of building emergency organization chairperson comprises at least one of: overseeing recovery activities in the event of an emergency; providing status on the recovery activities (i.e., status of crisis, table 2); prioritize resumption of critical functions; and compiling a list of all business units in a facility and their designated assembly areas, and recovery sites. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the role of building emergency organization chairperson comprises at least one of: overseeing recovery activities in the event of an emergency; providing status on the recovery activities; prioritize resumption of critical functions; and compiling a list of all business units in a facility and their designated assembly areas, and recovery sites in Davenport et al, as seen in Jacobs et al, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and

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one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 11, Davenport et al does not disclose the role of business executive comprises at least one of: assessing a risk exposure for the enterprise as a result of an emergency; declaring a disaster recovery condition; and prioritizing the reentry of employees to the building.

Jacobs et al disclose the role of business executive comprises at least one of: assessing a risk exposure for the enterprise as a result of an emergency; declaring a disaster recovery condition (i.e., current supplies, incoming aid, injuries, shortages, etc., in a natural disaster, column 5, lines 33-35); and prioritizing the reentry of employees to the building. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the role of business executive comprises at least one of: assessing a risk exposure for the enterprise as a result of an emergency; declaring a disaster recovery condition; and prioritizing the reentry of employees to the building in Davenport et al, as seen in Jacobs et al, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 12, Davenport et al does not disclose the role of facilities regional manager comprises at least one of: ordering partial or total evacuation of a facility; determining an anticipated length of the outage of a facility; supervising activities to

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restore the facility; providing status of the facility; coordinating with local police, fire and other public safety officials.

Jacobs et al disclose the role of facilities regional manager comprises at least one of: ordering partial or total evacuation of a facility; determining an anticipated length of the outage of a facility; supervising activities to restore the facility; providing status of the facility (i.e., current supplies, incoming aid, injuries, shortages, etc., in a natural disaster, column 5, lines 33-35); coordinating with local police, fire and other public safety officials. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the role of facilities regional manager comprises at least one of: ordering partial or total evacuation of a facility; determining an anticipated length of the outage of a facility; supervising activities to restore the facility; providing status of the facility; coordinating with local police, fire and other public safety officials in Davenport et al, as seen in Jacobs et al, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 13, Davenport et al does not disclose the role of human departments coordinator comprises at least one of: accounting for employees in an emergency at a facility; coordinating activities to seek out employees who are not accounted for in the emergency; generating lists of names and employee contact

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information for employees at the affected facility, and maintaining hard-copy printouts of employee contact information.

Jacobs et al disclose the role of human departments coordinator comprises at least one of: accounting for employees in an emergency at a facility; coordinating activities to seek out employees who are not accounted for in the emergency; generating lists of names and employee contact information for employees at the affected facility (i.e., crisis team members extracting information from a database including a victim's name, address, age, medical record and closest relative, column 10, lines 25-41), and maintaining hard-copy printouts of employee contact information. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the role of human departments coordinator comprises at least one of: accounting for employees in an emergency at a facility; coordinating activities to seek out employees who are not accounted for in the emergency; generating lists of names and employee contact information for employees at the affected facility, and maintaining hard-copy printouts of employee contact information in Davenport et al, as seen in Jacobs et al, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 14, Davenport et al does not disclose collecting employee information with respect to the employees of the department, the employee

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information including at least three of: the employee's name; primary work location; primary work region; primary work phone number; primary work facsimile number; pager number, pager Personal Identification number, cellular phone number; home phone number; alternate home phone number, personal internet addresses; alternate work location; alternate work address; and alternate work phone number.

Jacobs et al disclose collecting employee information with respect to the employees of the department, the employee information including at least three of: the employee's name; primary work location; primary work region; primary work phone number; primary work facsimile number; pager number, pager Personal Identification number, cellular phone number; home phone number; alternate home phone number, personal internet addresses; alternate work location; alternate work address; and alternate work phone number (i.e., crisis team members extracting information from a database including a victim's name, address, age, medical record and closest relative, column 10, lines 25-41). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include collecting employee information with respect to the employees of the department, the employee information including at least three of: the employee's name; primary work location; primary work region; primary work phone number; primary work facsimile number; pager number, pager Personal Identification number, cellular phone number; home phone number; alternate home phone number, personal internet addresses; alternate work location; alternate work address; and alternate work phone number in Davenport et al, as seen in Jacobs et al, since the claimed

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invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claims 33-36 are rejected based upon the same rationale as the rejections of claims 7-9 and 14, respectively, since they are the system claims corresponding to the method claims.

7. Claims 15, 16, 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davenport et al (US 2004/0103431), in view of Jacobs et al (USPN 5,185,697), in further view of Sudia (US 2005/0114653).

As per claims 15-16, neither Davenport et al, nor Jacobs et al disclose generating a wallet card for the employee using the employee information, wherein the wallet card is generated at a workstation of the employee, and the wallet card contains a hotline, a website, and at least one emergency location that the employee can use in an emergency. Sudia discloses a certification authority giving a user a wallet card containing contact information pertaining to a lost, stolen, destroyed or compromised machine (§ 0056). It would have been obvious to one of ordinary skill in the art to include a wallet card in the Davenport et al system, as seen in Sudia, since the claimed invention is merely a combination of old elements, and in the combination each element would have performed the same function as it did



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separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claims 37-38 are rejected based upon the same rationale as the rejections of claims 15-16, respectively, since they are the system claims corresponding to the method claims.

### ***Response to Arguments***

8. In the Remarks, with respect to independent claims 1 and 27, Applicant argues Bechhofer et al fails to disclose all claim elements of the claims of the present application. The Examiner respectfully submits that Davenport et al indeed disclose Applicant's claimed limitations, as seen in the rejection above.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- Tschiegg et al (USPN 7536405) disclose managing risk information.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (571)272-6726. The examiner can normally be reached on 9:30-6pm M-F.
- If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andre Boyce/  
Primary Examiner, Art Unit 3623  
October 23, 2010